



Andrew S. Feldman
Feldman Firm, PLLC
Southeast Financial Center
200 S. Biscayne Blvd, Suite 2770
Miami, Florida 33131
Phone: 305.714.9474
Mobile: 202.320.7705
Email: afeldman@feldmanpllc.com
Website: www.feldmanpllc.com
Florida Bar No. 60325
NY Bar Reg No: 4864799

April 2, 2020

VIA CM/ECF

Re: United States v. Seth Fishman, 20-cr-00160-MAV (S.D.N.Y.)
STATUS CONFERENCE AND DISCOVERY

Dear Judge Vyskocil:

We write to your Honor to provide some additional information, in advance of the hearing today, concerning Seth Fishman that may assist the Honorable Court in setting deadlines for discovery production as we all grapple with the surreal new normal that COVID 19 has created and as we all attempt to navigate the ongoing and evolving COVID-19 issues and concerns.

Mr. Fishman was arrested in *late October 2019* at Miami Airport on a Criminal Complaint. *See* Dkt. 1. At that same time, unlike the remaining 18 defendants, Mr. Fishman's home in South Florida, a warehouse in South Florida, and a storage unit were searched. Pursuant to those various searches, many items were seized. Focusing on the electronic devices only, Mr. Fishman's computers, iPhones, and at least one iPad Pro were seized.¹ Before the search in October, Mr. Fishman's DropBox account was also seized. And, at least 6 months prior to his arrest, the Government had obtained Title 3 intercepts of recorded phone calls between Mr. Fishman and others.² Those intercepts also intercepted text message correspondence during that same time period between Mr. Fishman and others.

¹ The Government recently agreed to return one Iphone and the iPad to Mr. Fishman.

² On March 19, 2020, the Government provided 400 plus pages of transcripts which cannot be used at any trial because they are "draft" transcripts. The Government did not indicate a date when they will make the audio recordings available to Mr. Fishman and/or in what format such recordings would be produced. They did indicate they would produce the judicial orders and authorizations corresponding to the intercepted communications in "short order."

Honorable Mary K. Vyskocil
Page 2

In sum, no later than late October (almost 5 months ago), the Government was in possession of:

- Mr. Fishman's iPad Pro
- Mr. Fishman's iPhone X
- Mr. Fishman's iPhone 7
- Access to Mr. Fishman's Dropbox
- Intercepted/recorded phone calls of Mr. Fishman for 6-7 months
- Intercepted text messages of Mr. Fishman for 6-7 months
- (Possibly) Mr. Fishman's emails and email accounts pursuant to search and seizure warrants or grand jury subpoenas.

On or about March 9, 2020, federal agents conducted a search warrant at Equestology, the company owned by Mr. Fishman, at Equestology's address in Delaware, which is an address belonging to co-defendant Lisa Giannelli. Pursuant to that search, other items and property were seized from Equestology and, to date, the agents have not provided an inventory to Mr. Fishman pursuant to Federal Rule of Criminal Procedure 41 although any such property is property belonging to Equestology of which Mr. Fishman is the owner. *See* Fed. R. Crim. P. 41 (f)(1)(B)-(C).

On March 26, 2020, Mr. Fishman made a specific discovery demand to the Government requesting, among other things, copies of Mr. Fishman's recorded statements (the original audio) pursuant to Fed. R. Crim. P. 16(a)(1), requesting any *Brady* and *Giglio* materials, and further requesting notice of any experts the Government seeks to call at trial pursuant to Fed. R. Crim. P. 16(a)(1)(G).

As such, Mr. Fishman respectfully submits this information to this Honorable Court to assist this Honorable Court in setting deadlines for discovery production in this case which take into account (i) the COVID 19 concerns which impact us all and the restrictions on essential government staff involved in the uploading, importing, and production of discovery; (ii) the voluminous discovery production in

Honorable Mary K. Vyskocil
Page 3

this case and the 19 defendants in this case; and (iii) prosecutors' obligations under Federal Rule of Criminal Procedure 16, *Brady* and *Giglio*, and *Jencks*.

Sincerely,

FELDMAN FIRM, PLLC

A handwritten signature in blue ink, appearing to read 'ASF', with a long horizontal line extending to the right.

Andrew S. Feldman

cc: CM/ECF